

P-421/C-89-942 ORDER DISMISSING COMPLAINT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Thomas Burton
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Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Excess
Construction Charges Imposed by
US WEST Communications

ISSUE DATE: May 15, 1992

DOCKET NO. P-421/C-89-942

ORDER DISMISSING COMPLAINT

PROCEDURAL HISTORY

I. Proceedings to Date

On October 23, 1989, Mr. Oral W. Dickinson filed a complaint with the Commission. Mr. Dickinson alleged that US WEST Communications, Inc. (US WEST or the Company) had misapplied its tariff when it charged him excess construction charges of \$180.00 for installing service to his residence.

On October 23, 1990, the Department of Public Service (the Department) filed a report in which it recommended that the Commission investigate further US WEST's excess construction charges.

Between October, 1990, and December, 1991, Mr. Dickinson twice withdrew and twice reinstated his complaint.

On January 16, 1992, the Commission served a notice in which interested parties were invited to submit comments regarding Mr. Dickinson's complaint.

On January 22, 1992, US WEST filed comments; the Department filed comments on January 30, 1992.

On April 8, 1992, the Department filed a letter with the Commission. In that letter the Department indicated that it withdrew any objection to US WEST's assessment of excess construction charges in Mr. Dickinson's case.

The matter came before the Commission for consideration on April 28, 1992.

FINDINGS AND CONCLUSIONS

II. Factual Background

Mr. Dickinson built a new home in Anoka County, Minnesota, in 1989. The residence is located on 10 acres within the Soderville exchange, which is served by US WEST. Although Mr. Dickinson owns approximately 30-40 additional undeveloped acres in the area, only the residence and the 10 acres were the subject of this proceeding.

Mr. Dickinson installed telephone cable from his residence to the street at his own expense. US WEST installed 1,420 feet of two pair wire from its nearest cable terminal to the edge of Mr. Dickinson's driveway. The Company applied its "Construction Charges" section of its General Exchange Price List to calculate a total construction charge to Mr. Dickinson of \$180.00. The Company allowed Mr. Dickinson a 700 foot construction allowance, then applied labor, engineering and material costs to the remaining 720 feet to arrive at the \$180.00.

US WEST could not serve the Dickinson property off a two pair wire which was already located in the street in front of the Dickinson home because the existing wire was only capable of serving the Company's customer to the west of the Dickinson property. The Company chose to install two pair wire to the Dickinson residence rather than a multi-pair wire which could serve multiple customers. US WEST chose the single use type of wire because it reasoned that wetlands abutting the Dickinson property would preclude further development in the area. The 10 acre lot size is also outside the Company's engineering parameters for service with multi-pair wire.

In various communications with the Department, Mr. Dickinson expressed his intention of constructing and selling at least one other residence on his ten acre site. In the Department's last filing, the agency informed the Commission that Mr. Dickinson had sold his residence and surrounding ten acres without constructing any further houses.

III. Commission Action

The Commission finds that US WEST has properly applied both its General Service tariff and its construction guidelines in the Dickinson case.

The Company's General Service tariff clearly states that a new customer will be assessed excess construction charges beyond the

700 foot allowance. This is the basis of the Company's \$180.00 charge to Mr. Dickinson. The Company also used proper judgment when it installed two pair wire to the residence west of the Dickinson property and to the Dickinson home itself. The fact that the area is to a great extent wetlands makes both of these Company decisions reasonable. A residence in an area which is comprised of lots greater than five acres and which is unlikely to be further developed can be served most efficiently and cheaply by two pair wire. The choice of two pair wire by the Company was therefore presumably reasonable in 1969 for the residence to the west and in 1989 for the Dickinson residence.

Although Mr. Dickinson and the Department raised the possibility of the application of a Residential Land Development tariff rather than the General Service tariff, Mr. Dickinson's sale of the residence and 10 undeveloped acres renders this inquiry moot.

Because the Commission finds that further investigation or recalculation of US WEST's excess construction charges in this case are unnecessary, the Commission will close the docket.

ORDER

1. Docket No. P-421/C-89-942 is closed.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)